

BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of }  
HOWARD AUTOMOBILE COMPANY }

Appearances:

For Appellant: Orville R. Vaughn, Attorney, of  
San Francisco  
For Respondent: Albert A. Manship, Franchise Tax Commission

O P I N I O N

This is an appeal pursuant to Section 25 of the Bank and Corporation Franchise Tax Act (Statutes 1929, Chapter 13, as amended) from the action of the Franchise Tax Commissioner in overruling the protest of Howard Automobile Company to a proposed assessment of an additional tax in the amount of \$608.03 for the year ended December 31, 1930, based upon its return for the year ended December 31, 1929.

The problems involved in this appeal are whether the Commissioner acted properly in including in the income by which the tax provided in the Act is to be measured the following items:

(1) Interest received on obligations and instrumentalities of the United States of America in the sum of \$45,354.36.

(2) Dividends received from a national bank located outside the state in the sum of \$1,147.50.

These problems, it is to be noted, are exactly the same as the problems involved in a prior appeal of Howard Automobile Company decided by this Board on May 15, 1931. We held in that appeal that the Act contemplated the inclusion of the above items in the income by which the tax provided in the Act is to be measured, and that the inclusion of these items was valid. We know of no reason why we should reach a different result in the instant appeal.

It might be noted that subsequent to rendering our decision in the above mentioned appeal, the Supreme Court of the United States held in the case of Pacific Company, Ltd. v. Johnson, 76 L. Ed. 555 that income from tax exempt improvement district bonds could be included in the income by which the tax provided in the Act is to be measured. It is true that the above case did not pass directly on the point as to whether interest from bonds or other obligations of the United States could be included in the measure of the tax, but for the reasons set forth in the Appeal of Homestake Mining Company (decided by this Board

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on May 10, 1932) we believe that the reasoning relied upon to uphold the inclusion of interest from tax exempt improvement district bonds can also be relied upon to uphold the inclusion of interest from bonds or other tax exempt obligations of the United States.

Pursuant to the views expressed in the opinion of the Board of Equalization on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the action of Honorable Albert A. Manship, Franchise Tax Commissioner, in overruling the protest of Howard Automobile Company, against a proposed assessment of an additional tax in the amount of \$608. for the year 1930, based upon the return for the year ended December 31, 1929, under Chapter 13, Statutes of 1929, as amended, be and the same is hereby sustained.

Done at Sacramento, California, this 25th day of October, 1932, by the State Board of Equalization.

R. E. Collins, Chairman  
Fred E. Stewart, Member  
Jno. C. Corbett, Member  
H. G. Cattell, Member

ATTEST: Dixwell L. Pierce, Secretary